

FILED
IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
2003 DEC 30 P 2:39

IN RE: MICROSOFT CORP.
ANTITRUST LITIGATION

MDL DOCKET NO. 1332
Hon. J. Frederick Motz

DE

This Document Relates To:

Kloth v. Microsoft Corp., No. JFM-00-2117

ORDER MODIFYING FORM AND MANNER OF NOTICE

By Order dated October 8, 2003, this Court granted preliminary approval to the proposed settlement of this action and approved the form and manner of notice to be provided to the Class concerning the settlement. In accordance with the conference held on December 18, 2003, the Court hereby amends its Order of October 8 to resolve an issue about the content of the notices to be issued and to reset the date of the hearing and the deadlines related to the settlement approval process as follows:

1. The Court hereby approves the proposed form of notice (the "Notice" which is attached hereto as Exhibit 1. On or before January 26, 2004, the Settlement Administrator shall send the Notice via first class mail, postage prepaid, (a) to all identifiable Class members whose mailing addresses are in the shop.microsoft.com database or Microsoft's records of its direct marketing campaigns, and (b) to the Class Representatives at their last known mailing address. The Notice to each identifiable Class member whose mailing address is in the shop.microsoft.com database or in Microsoft's records of its direct marketing campaigns will include a printout (to be provided to the Settlement Administrator

by Microsoft) of the number of licenses purchased in each applicable product category found in the shop.microsoft.com database and in Microsoft's records of its direct marketing campaigns for that identifiable Class member and the purchase price for each license. The Settlement Administrator shall utilize the national change of address service through the United States Postal Service to obtain corrected mailing addresses for Class members, and utilize a service to update the mailing addresses of Class members whose notices are returned because they were sent to incorrect addresses.

2. Microsoft shall establish an Internet Web site for the purpose of providing notice to Class members and shall post a copy of the Notice there

3. In addition to notice by U.S. mail, in any instance where Microsoft's records include an e-mail address but no physical address, Microsoft will arrange for the Notice to be e-mailed to all identifiable Class members whose e-mail addresses are in the shop.microsoft.com database or Microsoft's records of its direct marketing campaigns. The reference line for the e-mail message used to disseminate the notice shall state "Important Court-Ordered Notice-Please Read." The Notice shall be contained in the body of the e-mail message and not as an attachment

4. The Court approves the proposed form of publication notice (the "Publication Notice") attached hereto as Exhibit 2. On or before February 9, 2004, Microsoft shall cause the Publication Notice to be issued in a national weekday edition of USA Today.

5. On or before February 26, 2004, Plaintiffs' counsel shall file their application for an award of attorneys' fees and reimbursement of their expenses in this case.

6. Any member of the Class can request exclusion from (opt-out of) the settlement, as set forth in the Settlement Agreement, on or before March 26, 2004 (the

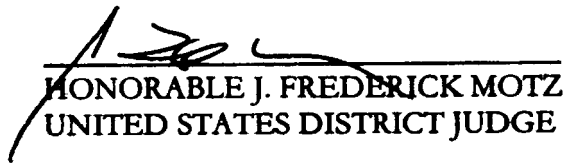
“Opt-Out Date”). Each member of the Class wishing to opt out of the Class must individually sign and submit timely written notice to the designated P.O. Box obtained by the Settlement Administrator. This written notice must be signed, contain the Class member’s name and address and clearly manifest an intent to be excluded from the Class. If the Class member is a company or organization, the written notice must also contain the name and address of the company or organization, the position of the person submitting the exclusion request and a statement that the person executing the request is authorized to do so on behalf of the company or organization. To be effective, written notice must be postmarked on or before the Opt Out Date.

7 The Court hereby schedules a hearing to occur on April 16, 2004 at 9:30 a.m. in Courtroom 5A at the Garmaiz Courthouse, 101 West Lombard Street, Baltimore Maryland 21201 to determine whether (a) the proposed settlement as set forth in the Settlement Agreement, should be finally approved as fair, reasonable and adequate pursuant to Federal Rule of Civil Procedure 23; (b) an Order of Approval approving the Settlement Agreement and a Final Judgment should be entered; and (c) the application of Counsel for the Class for an award of attorneys’ fees, costs and expenses should be approved. On or before March 26, 2004, all relevant briefs and papers shall be filed and served by objectors or persons other than the parties. On or before April 9, 2004, all relevant briefs and papers shall be filed and served by the parties.

8 All of the other provisions of this Court’s Order of October 8, 2003 granting preliminary approval to the proposed settlement and approving the form and manner of notice remain in full force and effect.

9 The Court hereby reserves the right to amend this Order or to alter the deadlines set forth herein for good cause shown.

ENTERED this 30th day of December, 2003.


HONORABLE J. FREDERICK MOTZ
UNITED STATES DISTRICT JUDGE